

INDIANA BOARD OF TAX REVIEW
Small Claims
Final Determination
Findings and Conclusions

Petition: 45-023-17-1-4-00253-19
Petitioner: Palm Lake Holdings, Inc.
Respondent: Lake County Assessor
Parcel: 45-02-36-351-004.000-023
Assessment Year: 2017

The Indiana Board of Tax Review (“Board”) issues this determination, finding and concluding as follows:

PROCEDURAL HISTORY

1. Palm Lake Holdings, Inc. (“Palm Lake”) contested the 2017 assessment of its property located at 5515 State Line Street in Hammond. The Lake County Property Tax Assessment Board of Appeals (“PTABOA”) issued a determination valuing the commercial retail property at \$221,800 (land \$34,600 and improvements \$187,200).
2. Palm Lake filed a Form 131 petition with the Board and elected to proceed under our small claims procedures. On November 18, 2019, Ellen Yuhan, our designated administrative law judge (“ALJ”), held a hearing on Palm Lake’s petition. Neither she nor the Board inspected the property.
3. Palm Lake appeared by certified tax representative Timothy Parish. The Assessor appeared by Hearing Officers Robert Metz and Joseph James. They were all sworn as witnesses.

RECORD

4. The official record contains the following:

Petitioner Exhibit 1:	Location map and photograph
Petitioner Exhibit 2:	Property record card
Petitioner Exhibit 3:	Purchase Agreement dated July 23, 2015
Petitioner Exhibit 4:	Addendum #1 to Purchase Agreement
Petitioner Exhibit 5:	Addendum #2 to Purchase Agreement
Petitioner Exhibit 6:	State of Indiana Alcoholic Beverage License renewal
Petitioner Exhibit 7:	Lake County Beer, Wine & Liquor License renewal
Petitioner Exhibit 8:	Construction invoices for remodel
Petitioner Exhibit 9:	Parcel detail report

Petitioner Exhibit 10: Power of Attorney

Respondent Exhibit 1: Sales Disclosure Form

Respondent Exhibit 2: MLS listing

5. The official record for this matter also includes the following: (1) all pleadings, briefs, motions, and documents filed in this appeal; (2) all notices and orders issued by the Board or our ALJ; and (3) an audio recording of the hearing.

BURDEN OF PROOF

6. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proof. Indiana Code § 6-1.1-15-17.2 creates an exception to that general rule and assigns the burden of proof to the assessor in two circumstances—where the assessment under appeal represents an increase of more than 5% over the prior year's assessment, or where it is above the level determined in a taxpayer's successful appeal of the prior year's assessment. I.C. § 6-1.1-15-17.2(b) and (d). If the assessor fails to prove that the assessment is correct, it reverts to the prior year's level or to another amount shown by probative evidence. I.C. § 6-1.1-15-17.2(b).
7. Here, the assessment increased by more than 5% from 2016 to 2017, and our ALJ preliminarily ruled that the Assessor has the burden of proof. During the course of the hearing, however, the parties discussed certain renovations and improvements to the subject property that our ALJ thought might render the 5% rule inapplicable under Indiana Code § 6-1.1-15-17.2(c)(1). Because the invoices submitted by Palm Lake show that the remodeling work was completed after the January 1, 2017 assessment date, we cannot consider any change in value attributable to such work in determining the property's true tax value for 2017. Ind. Code § 6-1.1-2-2(d). Thus, subsection 17.2(c)(1) has no bearing on this appeal. We therefore adopt our ALJ's preliminary determination placing the burden on the Assessor.

SUMMARY OF CONTENTIONS

8. The Assessor's case:
- a. The subject property is located close to the Indiana/Illinois state line. It is currently operating as a smoke shop and possibly as a liquor store. The reason for the increase in assessed value from 2016 to 2017 was that Palm Lake extensively remodeled the subject property and added an addition for which there was a building permit issued for \$85,000. *Metz testimony.*
 - b. On July 12, 2016, the property sold for \$300,000. The Assessor contends that the sales price reflects the property's market value because the associated Sales Disclosure Form ("SDF") does not state that personal property was included in the sale. Additionally, the Assessor pointed out that the subject property was listed for \$499,900 in 2011. *Metz testimony; Resp't Exs. 1, 2.*

9. Palm Lake's case:
 - a. Palm Lake agrees that it purchased the subject property for a total price of \$300,000. However, that price included the business and the property. Addendum #2, which Parish did not realize was unsigned, shows that the parties allocated \$120,000 of the purchase price to the real estate, \$50,000 to furniture, fixtures and equipment, and \$130,000 to goodwill. Palm Lake contends the subject's 2017 assessment should be \$181,200—the \$120,000 allocated from the purchase price plus the \$61,200 it spent on remodeling. *Parish testimony; Pet'r Exs. 3, 5, 8.*
 - b. The value allocated to goodwill included existing contracts with tobacco companies and distributors. When Palm Lake purchased the property, those contracts were kept in place and the new owners did not have to reapply for those contracts. As part of the purchase, the prior owner also transferred a liquor license to the current operator, Block Liquor. Block was able to upgrade the license and the zoning so it could continue to operate a liquor store out of the subject property. *Parish testimony; Pet'r Exs. 4-7.*

ANALYSIS

10. The Assessor failed to make a prima facie case that the 2017 assessment is correct. The Board reached this decision for the following reasons:
 - a. The goal of Indiana's real property assessment system is to arrive at an assessment reflecting the property's true tax value. 50 IAC 2.4-1-1(c); 2011 REAL PROPERTY ASSESSMENT MANUAL at 3. "True tax value" does not mean "fair market value" or "the value of the property to the user." I.C. § 6-1.1-31-6(c), (e). It is instead determined under the rules of the Department of Local Government Finance ("DLGF"). I.C. § 6-1.1-31-5(a); I.C. § 6-1.1-31-6(f). The DLGF defines "true tax value" as "market value in use," which it in turn defines as "[t]he market value-in-use of a property for its current use, as reflected by the utility received by the owner or by a similar user, from the property." MANUAL at 2.
 - b. All three standard appraisal approaches—the cost, sales-comparison, and income approaches—are "appropriate for determining true tax value." MANUAL at 2. In an assessment appeal, parties may offer any evidence relevant to a property's true tax value, including appraisals prepared in accordance with generally recognized appraisal principles. *Id.* at 3; *see also Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006) (reiterating that a market value-in-use appraisal that complies with the Uniform Standards of Professional Appraisal Practice is the most effective method for rebutting the presumption that an assessment is correct). Regardless of the appraisal method used, a party must relate its evidence to the relevant valuation date. *Long v. Wayne Twp. Ass'r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). Otherwise, the evidence lacks probative value. *Id.* For 2017 assessments, the valuation date was January 1, 2017. Ind. Code § 6-1.1-2-1.5(a).

- c. As discussed above, the Assessor has the burden of proving that the 2017 assessment is correct. The Assessor claimed that the assessment increased to \$221,800 due to the extensive remodeling work done to the subject property. While the remodeling work likely increased the property's value, the invoices submitted by Palm Lake show that it was completed after the January 1, 2017 assessment date. Thus, we cannot consider the renovations when determining the property's true tax value for 2017. Ind. Code § 6-1.1-2-2(d).
- d. The Assessor also submitted evidence that Palm Lake purchased the property for \$300,000 on July 12, 2016. The purchase price of a property can be the best evidence of its value. *Hubler Realty Co. v. Hendricks Co. Ass'r*, 938 N.E.2d 311, 315 (Ind. Tax Ct. 2010). However, the Assessor failed to demonstrate that the purchase price only represented the value of the real estate. The SDF may indicate that no personal property was included in the sale, but we credit Parish's testimony that the sales price included a business in addition to the property. And the Assessor failed to rebut Parish's assertion that the sale included the transfer of a liquor license to Palm Lake's current tenant. We also note that the Purchase Agreement and incorporated Addendums indicate that the property was leased at the time of sale. But the Assessor did not even attempt to show that the lease was at market. Thus, it is possible that the purchase price includes value attributable to the lease. Consequently, we find the sales price to be an unreliable indicator of the subject's true tax value.
- e. Because the Assessor did not offer any probative valuation evidence, he failed to make a prima facie case that the property's 2017 assessment is correct. Palm Lake is therefore entitled to have the property's 2017 assessment reduced to its 2016 assessed value. However, Palm Lake conceded that the 2017 assessment should be \$181,200. Based on that concession, we conclude the 2017 assessment should be \$181,200.

FINAL DETERMINATION

In accordance with the above findings of fact and conclusions of law, we order the 2017 assessment reduced to \$181,200.

ISSUED: January 23, 2020

Chairman, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

- APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days after the date of this notice. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court's rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>.